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Bureau of Special Education FY'13 Memo #10

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To: Superintendents of Schools
Directors of Special Education

From: Virginia M. Barry
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State Director of Special Education
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RE: Chartered Public School: Funding Amended RSA 194-B: 11 III ~ Questions & Answers

Effective August 10, 2012, the legislature amended RSA 194-B:11, III Chartered Public School: Funding. The amendment clarifies the procedure for the provision of special education and related services to a child with a disability who is enrolled in a chartered public school and requires chartered public schools¹ to provide due process in the provision of special education and related services to children with disabilities.

Prior to the change, RSA 194-B:11, III provided:

In accordance with current department of education standards, the funding and educational decision-making process for children with disabilities attending a chartered public school shall be the responsibility of the school district and shall retain all current options available to the parent and to the school district.

The legislative change, SB 300, revised the language, "responsibility of the school district," to "responsibility of the *resident* district." RSA 194-B:11, III(a) (emphasis added). Additionally, SB 300 added the following language:

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¹ For purposes of this memo, the terms "chartered public school" and "charter school" are interchangeable.

b) When a child is enrolled by a parent in a chartered public school, the local education agency of the child's resident district shall convene a meeting of the individualized education program (IEP) team and shall invite a representative of the chartered public school to that meeting. At the meeting, the IEP team shall determine how to ensure the provision of a free and appropriate public education in accordance with the child's IEP. The child's special education and related services shall be provided using any or all of the methods listed below starting with the least restrictive environment:

- (1) The resident district may send staff to the chartered public school; or
- (2) The resident district may contract with a service provider to provide the services at the chartered public school; or
- (3) The resident district may provide the services at the resident district school; or
- (4) The resident district may provide the services at the service provider's location; or
- (5) The resident district may contract with a chartered public school to provide the services; and
- (6) If the child requires transportation to and/or from the chartered public school before, after, or during the school day in order to receive special education and related services as provided in the IEP, the child's resident district shall provide transportation for the child.

(c) Consistent with section 5210(1) of the Elementary and Secondary Education Act and section 300.209 of the Individuals with Disabilities Education Act, when a parent enrolls a child with a disability in a chartered public school, the child and the child's parents shall retain all rights under federal and state special education law, including the child's right to be provided with a free and appropriate public education, which includes all of the special education and related services included in the child's IEP. The child's resident district shall have the responsibility, including financial responsibility, to ensure the provision of the special education and related services in the child's IEP, and the chartered public school shall cooperate with the child's resident district in the provision of the child's special education and related services.

RSA 194-B:11, III

The Bureau of Special Education has developed a list of questions and answers to assist the districts with frequently asked questions with reference to Chartered Public Schools.

1. How can special education and related services be provided for students with individualized education programs ("IEPs") enrolled at a chartered public school?

Pursuant to RSA 194-B:11, III(b), when a child is enrolled by a parent in a chartered public school, the local education agency (LEA) of the child's resident district shall convene a meeting of the individualized education program (IEP) team and shall invite a representative of the chartered public school to that meeting. At the meeting, the IEP team shall determine how to ensure the provision of a free and appropriate public education in accordance with the child's IEP. The child's special education and related services shall be provided using any or all of the methods listed below starting with the least restrictive environment:

- (1) The resident district may send staff to the chartered public school; or
- (2) The resident district may contract with a service provider to provide the services at the chartered public school; or
- (3) The resident district may provide the services at the resident district school; or
- (4) The resident district may provide the services at the service provider's location; or

- (5) The resident district may contract with a chartered public school to provide the services; and
- (6) If the child requires transportation to and/or from the chartered public school before, after, or during the school day in order to receive special education and related services as provided in the IEP, the child's resident district shall provide transportation for the child.

2. If a parent chooses to enroll a child with disabilities at a chartered public school, is the LEA of residence responsible for transportation?

- The LEA of residence is responsible for transportation to the chartered public school if transportation is a necessary related service in the child's IEP. See RSA 194-B:11, III(b)(6). If transportation is not a necessary related service in a child IEP, then transportation must be provided in accordance with RSA 194-B:2 (V).

3. Is the LEA of residence responsible for entering students with disabilities enrolled in a charter public school into the New Hampshire Special Education Information System (NHSEIS)?

- Yes, the LEA of residence is responsible for entering data for students into NHSEIS if the student is receiving special education services.

4. If personnel at a chartered public school suspect a disability, what are the next steps?

- The chartered public school personnel should contact the student's LEA of residence. The chartered public school should also notify the parent.

5. Can an LEA place a student with disabilities at a chartered public school?

- Only parents can choose to enroll a child at a chartered public school. However, it is the responsibility of the LEA to implement the IEP for the child attending the chartered public school.

6. If a child is enrolled by a parent in a chartered public school, who convenes the IEP meeting?

- The LEA of the child's resident district shall convene a meeting of the IEP team. See RSA 194-B:11, III(b).

7. Is it the responsibility of the LEA of residence to invite personnel from the chartered public school to the students' IEP meeting?

- Yes, it is the responsibility of the LEA of residence to invite representatives from the chartered public school to the IEP team meeting. The construct of the IEP team is outlined in 34 CFR 300.321.

8. If a parent chooses to enroll a child with disabilities at a chartered public school is the LEA of residence responsible for implementing the IEP?

- The resident district shall have the responsibility, including financial responsibility, to ensure the provision of the special education and related services in the child's IEP, and the chartered public school shall cooperate with the child's resident district in the provision of the child's special education and related services. See RSA 194-B:11, III(c).

9. How does a LEA of residence address the issue of "HQT" for students with disabilities enrolled in a chartered public school?

- According to NH chartered public school law, "the teaching staff of a chartered public school shall consist of a minimum of 50 percent of teachers either New Hampshire certified or having at least 3 years of teaching experience." RSA 194-B:14, IV.

10. Is the LEA in which the chartered public school is located responsible for providing special education services to all children with disabilities in the chartered public school?

- No, the LEA in which the chartered public school is located is only responsible for providing special education services to the children with disabilities who reside in the LEA. See RSA 194-B:11, III (funding "shall be the responsibility of the resident district"). The students' LEA of residence is responsible for providing special education services.

11. If a LEA of residence is not in agreement with a parents' choice to enroll their child with disabilities in a chartered public school, what is the responsibility of the LEA of residence?

- It is the parent's choice to enroll their child at a chartered public school. It is the LEA of residence's responsibility to ensure that FAPE is being provided. If the parent and LEA are in disagreement, they may pursue means to resolve the issues.

12. Do children with disabilities who are enrolled at chartered public schools participate in the state-wide assessments?

- Yes.

13. What rights do the child and the child's parents have when a child is enrolled in a chartered public school?

- Consistent with section 5210(1) of the Elementary and Secondary Education Act and Section 300.209 of the Individuals with Disabilities Education Act, when a parent enrolls a child with a disability in a chartered public school, the child and the child's parents shall retain all rights under federal and state special education law, including the child's right to be provided with a free and appropriate public education, which includes all of the special education and related services included in the child's IEP. See RSA 194-B:11, III(c).

14. Will a school district be able to request reimbursement through the catastrophic aid formula when it pays a chartered public school to provide special education services?

- The NHDOE will consider the cost of special education and related services from a chartered public school so long as the service provider is appropriately certified and/or licensed and the cost will meet the guidelines in the CAT Aid Manual dated March 12, 2012.

15. Is the LEA or chartered public schools responsible for 504 Plans?

- The chartered public school is responsible for 504 Plans.

The NHDOE website provides updated information regarding Chartered Public Schools:

http://www.education.nh.gov/instruction/school_improve/charter/index.htm